

REMARKS

Summary

Claims 1-52 stand in this application. Claims 49-52 have been withdrawn. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Allowable Claims

We would like to thank the Examiner for indicating the allowability of claims 11-13, 19-21, 24, 30-34, 44, 45 and 48 if amended to include all of the limitations of the base claims and any intervening claims. Applicant respectfully submits, however, that these claims represent patentable subject matter as currently listed based on the amendments and/or remarks given for the independent claims as discussed in detail below. Applicant would like to respectfully reserve the right, however, to amend the allowable claims into independent form during further prosecution if warranted.

35 U.S.C. § 102

At page 2, paragraph 3 of the Office Action claims 1-10, 14-18, 22-23, 25-29, 35-43 and 46-47 stand rejected under 35 U.S.C. § 102 as being anticipated by United States Patent Number (USPN) 4,774,504 to Hartings (“Hartings”). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that the teaching of Hartings is different than the teaching of claims 1-10, 14-18, 22-23, 25-29, 35-43 and 46-47 and thus they define over Hartings. For example, claim 1, in relevant part, recites:

the linear clamp having a slot to retain said tack body, and to move in a substantially linear direction in response to a force to release said tack body from said slot.

According to the Office Action, this language is disclosed by Hartings at figures 2 and 3.

Applicant respectfully disagrees. Hartings at column 2, lines 15-49, wherein the lock mechanism (e.g. clamp) is described, in relevant part, states:

The lock 23 includes a lock member generally indicated at 24 preferably stamped from a single piece of magnetizable material such as spring steel. The lock member 24 comprises a pair of plate portions 25 and 26, a pair of jaws 27 and 28, and a pair of flexible, resilient leaf springs or spring members 29 and 30. The plate portions 25 and 26 have spaced side edges 31 and 32. There are preferably two and only two leaf springs 29 and 30 which are flexible and resilient to deflect readily from the position shown in FIG. 2 to the position shown in FIG. 3 upon the tag 10 being brought into proximity with a magnetic decoupler generally indicated at 33 in FIG. 3, and yet the springs 29 and 30 exert enough force to return the lock member to its FIG. 2 position upon removal of the tag 10 from the decoupler 33. ... When the jaws 27 and 28 are in the locked position (FIG. 2) in any one of the grooves 37, the opening between the jaws 27 and 28 is less than the diameter of the shank 36 (FIG. 4), so that removal of the pin 35 is not possible; when the jaws 27 and 28 are in the unlocked position (FIG. 3) the opening between the jaws 27 and 28 is greater than the diameter of the shank 36 (FIG. 5) so that the shank 36 of the pin 35 can be inserted between the jaws 27 and 28 or withdrawn therefrom....

In contrast, the claimed subject matter teaches “the linear clamp having a slot to retain said tack body, and to move in a substantially linear direction in response to a force to release said tack body from said slot.”

Applicant respectfully submits that deflecting leaf springs from a locked to an unlocked position, as arguably taught by Hartings in figures 2 and 3, and moving “in a substantially linear direction...to release said tack body from said slot” are different. Applicant respectfully submits that Hartings, arguably, teaches rotating the leaf springs downwardly by applying a decoupling force.

Applicant respectfully submits that if the leaf springs in Hartings were moved in a substantially linear direction (up and down as stated in the Office Action), that the shank could not be removed from the tag housing. Applicant respectfully submits that the EAS Tag taught by Hartings requires a rotational force to be applied to the leaf springs for proper removal of the shank from the tag housing. Consequently, the teaching of Hartings is different than that of the claimed subject matter. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 2-10, 14-18 and 22-23 which depend from claim 1 and, therefore, contain additional features that further distinguish these claims from Hartings.

Claims 25 recites features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claim 25 is not anticipated and is patentable over Hartings for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 25. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection

with respect to claims 26-29, 35-43 and 46-47 that depend from claim 25, and therefore contain additional features that further distinguish these claims from Hartings.

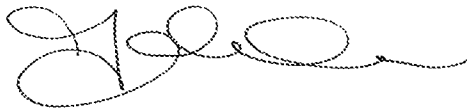
Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-48 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present patent application.

Respectfully submitted,

KACVINSKY LLC



John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

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